

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

MARCUS LIGE, )  
                        )  
Plaintiff,         )  
                        )  
v.                     )                      CIV-09-498-F  
                        )  
WARDEN OF EL RENO     )  
CORRECTIONAL CENTER,     )  
                        )  
Defendant.         )

REPORT AND RECOMMENDATION

Plaintiff, a federal prisoner appearing pro se, filed this civil rights action pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971) on May 12, 2009. The matter was referred to the undersigned Magistrate Judge by United States District Judge Friot on May 13, 2009, for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). On May 13, 2009, the undersigned reviewed the pleadings filed by Plaintiff and entered an Order notifying Plaintiff that the documents filed on May 12, 2009, were deficient because the Complaint was not on the proper form, the Complaint did not name each Defendant, and Plaintiff had not submitted either an *in forma pauperis* application or paid the full \$350 filing fee. The Plaintiff was ordered to cure these deficiencies by June 1, 2009, and advised that if the deficiencies were not cured, the undersigned would recommend the dismissal of the action without prejudice. As of this date, Plaintiff has failed to comply with the Order or

seek an extension of time to do so.

Plaintiff's lack of interest in complying with the Court's Order combined with the Court's attempt to manage and control its caseload warrant a dismissal of the Complaint without prejudice. See Gripe v. City of Enid, Okla., 312 F.3d 1184, 1188 (10<sup>th</sup> Cir. 2002) (Federal Rules of Civil Procedure authorize sanctions, including dismissal, for failure to comply with court's orders). See also Nasious v. Two Unknown B.I.C.E Agents at Arapahoe County Justice Center, 492 F.3d 1158, 1161 n. 2, 1162 (10<sup>th</sup> Cir. 2007)(*sua sponte* dismissal for failure to comply with court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing action without prejudice for failure to comply).

#### RECOMMENDATION

In view of the foregoing, the undersigned recommends that the action be dismissed without prejudice. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by June 29<sup>th</sup>, 2009, in accordance with 28 U.S.C. § 636 and LCvR 72.1. The failure to timely object to this Report and Recommendation would waive appellate review of the recommended ruling. Moore v. United States of America, 950 F.2d 656 (10<sup>th</sup> Cir. 1991); cf. Marshall v. Chater, 75 F.3d 1421, 1426 (10<sup>th</sup> Cir. 1996)(“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).

This Report and Recommendation disposes of all issues referred to the undersigned

Magistrate Judge in the captioned matter, and any pending motion not specifically addressed herein is denied.

ENTERED this 8<sup>th</sup> day of June, 2009.

  
GARY M. PURCELL  
UNITED STATES MAGISTRATE JUDGE